

EU – US Action Strategy for the Enforcement of Intellectual Property Rights

April 2007

In June 2006, during the EU-US Summit in Vienna, Presidents Barroso and Bush launched a new programme of cooperation on enforcement of intellectual property rights around the world. The objectives were defined in the ***EU-US IPR Action Strategy*** adopted by the Summit.

Since this announcement, officials from both governments have been working closely together with industry and third country trading partners on a range of initiatives to implement the objectives set in the Action Strategy.

Below, under the heading *Joint Accomplishments* is a summary of the major activities undertaken so far.

Under the heading *2007 Priorities* there is a description of the main tasks which the EU and US agreed to undertake jointly in the current year.

1. Improving Enforcement

a) On Customs and border control

1. Increase cooperation to strengthen border enforcement of IP rights, taking fully into account the five-point plan agreed in the framework of the Joint Customs Cooperation Committee (JCCC):

- Exchange IPR border enforcement practices and experiences: Risk analysis and management, statistical seizure data, working with right holders and right holder use of customs resources to enforce their rights, enforcement techniques, and legislation.

Joint Accomplishments: *U.S. and EU customs officials have initiated regular communication to discuss ongoing IP enforcement concerns and priorities. U.S. and EU officials have met three times.*

2007 Priorities: *Share information regarding U.S. approach to training programs to develop IPR expertise among customs officers and EU's simplified destruction procedures for small shipments of IPR infringing goods. Expand regular exchange of information occurring in the EU-US Customs Co-operation meeting.*

- Exchange of operational staff: Jointly target and examine shipments to obtain additional insight into IPR enforcement practices and experiences.

Joint Accomplishments: *U.S. operational staff has visited EU and participated in joint targeting and examination of shipments in air, sea and mail environments. U.S. also participated in meeting of EU seaports where information on trends and enforcement practices was exchanged.*

2007 Priorities: *EU customs officials to visit U.S.*

- Exchange of enforcement information on IPR seizures and trends Enhancing targeting and controls for counterfeit goods posing health and safety or security risks is a priority for cooperation in this area. A mechanism for making exchanges is under development.

Joint Accomplishments: *U.S. and EU customs officials have finalized the format and technology to be used for info exchange. A first test transmission based on a major EU operation has been sent to the U.S. containing detailed seizure information and details of overseas exporters. U.S. has provided information on computer hardware and networking equipment to the EU and to the port of Rotterdam.*

2007 Priorities: *To pursue the exchange of information.*

- Identification of specific areas for cooperation. Issuance of joint guidelines to assist the private sector to take advantage of the border enforcement tools that are available to protect IP. Closer cooperation with customs authorities, for example by creating IP toolkits, to assist customs officers has been identified as an area for cooperation. Development of guidelines underway.

Joint Accomplishments: *Drafting of guidelines in progress.*

- Engagement in a joint IPR border enforcement action, in areas of particular concern to be jointly agreed (for instance involving security/safety and public health issues).

Joint Accomplishments: *The EU has shared information on the results of a September 2006 seaports operation and U.S. is looking for targets at U.S borders based on this information.*

2007 Priorities: *To agree on new proposals for joint enforcement initiatives.*

b) Bilaterally

2. Step up our actions to encourage third countries to enforce IPR and to combat counterfeiting and piracy. This should be done *inter alia* through coordinated efforts that draw upon information from industry; coordinated messages on key enforcement issues and active complementing of each others' bilateral efforts working with third countries; and exchange of information about significant IP-related meetings and other events that provide opportunities to advance these objectives.

- Our initial efforts will focus on China and Russia as well as other infringing and trans-shipment areas of key concern in Asia, Latin America and the Middle East.

Joint Accomplishments: *U.S. and EU officials are in regular contact regarding key enforcement problems. Coordination has taken place through DC/Brussels teleconferences and in-person meetings. Key areas in which we have already delivered coordinated messages include:*

China: The U.S. and the EU have both raised the need to reduce criminal thresholds for piracy and counterfeiting, as well as the need to improve enforcement around retail/wholesale markets and trade fairs. The Parties have

discussed U.S. concerns regarding market access restrictions for foreign films, regulation of active pharmaceutical ingredients and the need for China to participate in global optical disc forensics programs.

2007 Priorities: *To pursue close cooperation regarding the resolution of common problems in China. The Parties may wish to intensify cooperation in particular on the following issues:*

- *IPR legislative reform issues, including patent law revision and trademark law revision*
- *Treatment of IPR in standards setting (e.g. disclosure requirements for licensing terms)*
- *IPR and technology transfer related issues, including licensing agreements*
- *Piracy of books and journals, especially associated with universities*
- *Internet piracy and optical media piracy (including encouraging sharing of OD exemplars with IFPI library in UK)*
- *Counterfeiting in retail and wholesale markets*
- *IP protection at trade fairs*
- *“Slavish imitation” in design patent issues*
- *Regional enforcement/provincial issues*
- *Technical assistance*

Russia: The U.S. and the EU have both raised the need to shut down websites offering pirated product and we have exchanged information on recent changes to Russia’s IPR laws with a view toward further cooperation in the context of Russia’s multilateral WTO accession process.

2007 Priorities: *To pursue close cooperation regarding the resolution of common problems in Russia.*

Other regions: The U.S. and the EU have shared concerns in other regions of the world.

2007 Priorities: *To expand its cooperative efforts to other regions such as Southeast Asia and Latin America, to resolve issues of common concern.*

3. Create bilateral IP networks in our Embassies/Delegations in relevant third country capitals to facilitate information sharing, delivery of complementary and/or joint messages as appropriate, cooperation on training and technical assistance programmes, and assisting industry enforcement efforts.

- Expand cooperative action in Beijing and Moscow with future consideration of extension to other third country capitals.

Joint Accomplishments: *Embassy staff in Beijing and Moscow are now coordinating regularly (at least monthly) on key IP issues. Information is exchanged before and after the respective EU and US IPR related dialogues with these two countries.*

2007 Priorities: *To pursue close and regular cooperation in Beijing and Moscow and to extend it to Bangkok, to cover issues in the region of Southeast Asia.*

c) **Multilaterally**

4. Facilitate the ongoing OECD IP study by providing data and any other necessary and available resources, recognizing that current, independent and reliable information on the scope and effects of IP theft will shape a more compelling pro-IP enforcement message for consumers and governments worldwide.

Joint Accomplishments: *U.S. and EU are communicating views to each other and shared written comments to the OECD.*

2007 Priorities: *Coordinating on possible follow-up studies in our domestic markets to supplement the OECD results and assist us strategically.*

5. Support implementation of the 2005 G8 Leaders Statement on Reducing IPR Piracy and Counterfeiting through More Effective Enforcement, in particular in the area of the fight against criminal infringements of IP rights to reduce substantially global trade in pirated and counterfeit goods.

Joint Accomplishments: *EU and U.S. have cooperated in the context of the G8 IPR experts group to implement the Leaders Statement.*

2007 Priorities: *To cooperate in the definition and the implementation of the G8 2007 IPR programme to be adopted at the Heiligendamm Summit.*

6. Enhance collaboration against counterfeiting and piracy in relevant multilateral venues, including the WTO (TRIPS-Council). In particular, we will ensure cooperation and effective European Community participation in WIPO activities relating to intellectual property rights enforcement.

Joint Accomplishments: *EU and U.S., with support from other WTO members, have advocated that the WTO TRIPS Council undertake a fact-based discussion of IPR enforcement and national experiences in addressing counterfeiting and piracy. . The U.S. has supported the EU's status as a full-voting member of the WIPO Advisory Committee on Enforcement (ACE).*

2007 Priorities: *The EU and U.S. will continue to work with other WTO members to foster a constructive discussion of enforcement issues within the TRIPS Council.*

7. Encourage and assist third countries to implement the WTO Agreement on Trade Related Aspects of Intellectual Property Rights.

Joint Accomplishments: *EU and U.S. have exchanged information on their respective efforts to identify TRIPS compliance concerns in third countries.*

d) On technical assistance

8. Strengthen IPR enforcement internationally through coordinated and/or complementary technical assistance cooperation and capacity building programmes, including addressing the issue of public awareness. Share information with each other and with industry on training opportunities and programmes. Launch joint activity in capacity building programmes in select key countries. Identify ways to increase private sector participation/support.

- Reference US: USG Training Coordination Group site - www.training.ipr.gov.
- Reference EU: DG Trade Website
http://ec.europa.eu/trade/issues/sectoral/intell_property/pr030806_en.htm#1
- Initial programmes for cross-participation to include ECAP II and Paraguay.

Joint Accomplishments:

The ASEAN Secretariat, the EU and the U.S., with the assistance of the Indonesian authorities, jointly organized a workshop on Intellectual Property Enforcement on December 7-8, 2006, in Denpasar, Indonesia, with the participation of private sector and government experts from Europe, the Philippines, Singapore, Thailand, and the United States. This was the first joint effort by ECAP II and the USPTO in assisting ASEAN member states with capacity-building activities in the area of intellectual property enforcement.

2007 Priorities: *The EU and the U.S. will cooperate further on a series of training programs for customs officials in Vietnam, Cambodia, and Laos, respectively. These programs will focus on capacity-building around IPR border measures and enforcement activities by customs officials in the three countries.*

The U.S. and the EU are currently developing an IP enforcement program for South America's tri-border region. The program will be held in Foz do Iguaçu, Paraguay and will be open to Customs officials in Brazil, Paraguay, and Argentina.

The U.S. and EU are reaching out to officials in the United Arab Emirates to develop programs aimed at tackling transshipment of fake and counterfeit goods through the Middle East.

Officials from the U.S. and EU will collaborate with industry to develop a program for Russian enforcement officials to address software and online piracy.

The U.S. and EU will endeavour to conduct a programme in China on internet piracy.

2. Promoting public-private partnerships

9. Involve industry by providing information on IPR related meetings and activities in third countries to facilitate industry input and providing feedback on meetings and results.

Joint Accomplishments: *U.S. and EU hosted public-private event followed by government-to-government talks in early 2007, in conjunction with the Third Global Congress on Combating Counterfeiting and Piracy to be held in Geneva, Switzerland.*

2007 Priorities: *At least one additional joint public-private coordination event will take place in 2007.*

10. Launch joint public-private roundtable discussions in third countries, with the support of our interested parties, to prioritise key IPR enforcement challenges.

2007 Priorities: *The U.S. and EU are in the process of identifying key countries in which to hold embassy-hosted public-private roundtables and seminars; placement of IP attaches will, in part, determine which countries.. Programs will take place in 2007.*

11. Assist SMEs with IPR protection and enforcement challenges in third countries.

- Share information on SME challenges and existing programmes and efforts to educate and cooperate with SMEs on IP protection and enforcement in third countries.

Joint Accomplishments: *U.S. and EU have shared practices in outreach and education to SMEs on approximately a monthly basis, including the following topics:*

U.S.: STOP Hotline (over 1,000 calls received in the past year); ABA International IPR Advisory Program; SME IPR Training Module (expected early 2007); Country IPR Toolkits (7 already active; online template in development to be available for sharing early 2007).

EU: Study on the effects of counterfeiting on EU SMEs and EU policies; Preparations for enhancement of EU IPR Help Desk.

2007 Priorities: *The U.S. will share existing SME resources and outreach materials with the EU. In August of 2007, the U.S. Department of Commerce will launch an internet training tool for SMEs and others with IP concerns. This material will be shared with the EU for translation/use.*

U.S. industry has developed the first in a series of materials aimed at educating businesses on the importance of supply chain security in the fight against counterfeiting and piracy. The U.S. and EU are discussing ways to build on this work, including translating the materials for broader use and making supply chain security a core topic at public-private roundtables in key countries (see above).

12. Increase public awareness of the need to address IPR infringements such as at trade fairs and share ideas on ways to improve enforcement against such infringements, in cooperation with the interested parties.

Joint Accomplishments: *U.S.: Trade Fair Initiative Launched Sept 2006; information has been discussed with EU.*

2007 Priorities: *The U.S. has launched a campaign to improve the environment for IP at trade fairs. The U.S. and EU are discussing how to expand the campaign. We anticipate further educational efforts at trade fairs in the coming months – including at China’s Canton Fair.*

The U.S. has sponsored numerous public outreach events to businesses and consumers, including a mid-April 2007 event for media, legislators, consumer advocates and U.S. and foreign government officials detailing the negative effects of counterfeiting and piracy on consumers. The Embassy of France participated in the program and the EU Mission and member state embassies were invited to attend. We will explore additional opportunities – including public-private – to get the message out to consumers and decrease demand for illegal goods.

Invite industry to:

13. Assume an expanded role in the public-private enforcement partnership by working closely with and supporting law enforcement agencies’ efforts:

- Share more information and intelligence with the relevant authorities, lodge well-developed and defined requests for assistance, follow-through on complaints and support measures taken. Authorities will respect industry’s confidentiality concerns regarding information provided.

Public-Private Accomplishments:

EU and US industry work closely with law enforcement agencies around the world to support them in the frontline battle against counterfeiting and piracy. Businesses provide training to officials as well as logistical and forensic support for operations.

2007 Priorities: *Expanded efforts to engage Chinese and Russian enforcement authorities in anti-piracy operations.*

- Provide us with information on successful IP industry coalition models and explore how such models could be expanded to include industries in third countries.

Public-Private Accomplishments:

EU and US businesses are cooperating in a number of third countries to fight counterfeiting and optical disc piracy, for example in China, Russia, Nigeria,

Ukraine and Pakistan. Local associations and groups also take part in these anti-counterfeiting and piracy activities where possible.

14. Provide the US and EU with as much reliable and timely information as possible about the IP enforcement environment in key countries to equip senior government officials to address more effectively industry concerns with third country governments.

Public-Private Accomplishments:

- *EU and the US industry keep government officials regularly updated on the IP enforcement environment in China and Russia as well as other relevant third countries.*

15. Provide the US and EU with information on industry IP public awareness and other educational campaigns, including programmes for government officials and industry-developed sectoral best practices for enforcement.

Public-Private Accomplishments:

EU and US businesses are working on numerous education and best practice activities in conjunction with governments. Amongst many best practices are the French Comité national anti-counterfeiting's "Contrefaçon Non Merci" campaign, the IFPI's "Young People, Music and the Internet" campaign aimed at student internet users, and the Coalition Against Counterfeiting and Piracy's "Supply Chain Best Practices Kit"..

2007 Priorities: U.S. and EU industry and law enforcement entities will work together to develop materials and programs to educate businesses, especially SMEs, and individuals who are potential victims of IP theft about working effectively with law enforcement.